

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF RHODE ISLAND

IN RE:

Ivy K. Nimley

Taylor, Bean & Whitaker Mortgage Corp.

VS.

Ivy K. Nimley

CHAPTER 7  
CASE NO. 13-10913-DF

MOTION FOR RELIEF FROM STAY AND MEMORANDUM IN SUPPORT THEREOF

To the Honorable Diane Finkle:

Taylor, Bean & Whitaker Mortgage Corp., your moving party in the within Motion, respectfully represents:

1. The Movant has a mailing address of 4901 Vineland Road, Suite 120, Orlando, FL 32811.
2. The Debtor, Ivy K. Nimley, has a mailing address of PO Box 72808, Providence, RI 02907.
3. On April 9, 2013, the Debtor filed a petition under Chapter 7 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Rhode Island.
4. The Movant is the holder of a first mortgage on real estate in the original amount of \$248,000.00 given by Ivy Nimley to Mortgage Electronic Registration Systems, Inc. on or about August 30, 2006. Said mortgage is recorded with the Providence Land Records at Book 8254, Page 23 and covers the premises located at 162 Courtland Street, Providence, RI 02909.
5. Said mortgage secures a note given by Ivy Nimley to Taylor, Bean & Whitaker Mortgage Corp. in the original amount of \$248,000.00.
6. Said mortgage was assigned by Mortgage Electronic Registration Systems, Inc. to Taylor,

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7. As of August 2, 2013, approximately \$392,743.02 in principal, interest, late fees and other charges was due with regard to the note and mortgage. Additionally, reasonable attorney's fees and costs have accrued as a result of this motion.

8. There are the following encumbrances on the property:

<u>Name of Creditor</u>	<u>Type of Lien</u>	<u>Amount Owed</u>
Taylor, Bean & Whitaker Mortgage Corp.	First Mortgage	\$392,743.02
Mortgage Electronic Registration Systems, Inc.	Second Mortgage	\$62,000.00
<b>Total Secured Encumbrances:</b>		<b>\$454,743.02</b>

9. According to the Debtor's schedules, the fair market value of the subject property is \$250,000.00.

10. The note and mortgage are in default for the July 1, 2007 payment and all payments thereafter, plus reasonable attorney's fees and costs and other charges incurred by the Movant.

11. The Movant seeks relief from stay as a secured creditor to enforce its rights under its loan documents and applicable law. In support thereof, the Movant states that it is entitled to relief:

I. Pursuant to 11 U.S.C. §362 (d)(1) for cause on the basis that the Debtor is in default on said contractual obligations; and

II. Pursuant to 11 U.S.C. §362 (d)(2) on the basis that there is no equity in the subject

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property and, there being no reorganization in prospect, the property is not necessary for effective reorganization.

WHEREFORE, the Movant prays that it, and its successors and/or assigns, be granted relief from the automatic stay for the purpose of: (i) exercising its rights under its agreements with the Debtor and under applicable law, including, without limitation, taking possession of the mortgaged premises and/or foreclosing or accepting a deed in lieu of foreclosure of its mortgage on said premises, and bringing such actions, including, without limitation, eviction proceedings, as are permissible by law; (ii) the Court waive the provisions of F.R.B.P. 4001 (a)(3); and (iii) the Court order such other and further relief as may be just and proper.

Respectfully submitted,

Taylor, Bean & Whitaker Mortgage Corp.,  
By its Attorney

/s/ Tatyana P. Tabachnik

Tatyana P. Tabachnik, Esquire  
RI #8911

HARMON LAW OFFICES, P.C.

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August 22, 2013

**Within fourteen (14) days after service as evidenced by the certification and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor,**

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**Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.**

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CERTIFICATE OF SERVICE

I, Tatyana P. Tabachnik, Esquire, state that on August 22, 2013, I electronically filed the foregoing Motion for Relief from Stay and Proposed Order with the United States Bankruptcy Court for the District of Rhode Island using the CM/ECF System. I served the foregoing document on the following CM/ECF participants:

Gary L. Donahue, Esquire, Assistant U.S. Trustee  
Charles A. Pisaturo, Jr., Esquire, Chapter 7 Trustee  
Jack D. Pitts, Esquire for the Debtor  
Gilbert B. Weisman, Esquire for eCast Settlement Corporation  
Timothy W. Larson, Esquire for U.S. Bank N.A., as trustee, on behalf of the holders of the J.P.  
Morgan Mortgage Acquisition Trust 2006-  
CH2 Asset Backed Pass-Through  
Certificates, Series 2006-CH2

I certify that I have mailed by first class mail, postage prepaid the documents electronically filed with the Court on the following non CM/ECF participants:

/s/ Tatyana P. Tabachnik  
\_\_\_\_\_  
Tatyana P. Tabachnik, Esquire  
RI# 8911

Ivy K. Nimley  
PO Box 72808  
Providence, RI 02907

eCast Settlement Corporation  
POB 35480  
Newark, NJ 07193-5480

Mortgage Electronic Registration Systems, Inc.  
P.O. Box 2026  
Flint, MI 48501-2026